

**REMARKS**

Claims 25-53 were pending. By virtue of this response, claims 25-28, 30-39, and 52-53 are amended, and claims 29 and 42 are cancelled. Therefore, claims 25-28, 30-41, and 43-53 are presently pending. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter is added.

**Allowable Subject Matter**

Applicant thanks the Examiner for indicating claims 29, 33-36, 42, and 46-49 are allowable. However, claims 29, 33-36, 42, 46-49 are objected to as allegedly being dependent upon a rejected base claim. The Examiner has indicated the objected claims would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

In response, independent claims 25 and 39 have been amended to include subject matter related to claims 29 and 42, respectively.

**Specification**

The abstract of the disclosure is objected to because the abstract of the disclosure does not commence on a separate sheet in accordance with 37 C.F.R. 1.52(b)(4).

In response, a new abstract of the disclosure on a separate sheet is provided. Accordingly, Applicant respectfully requests the objection to the specification be withdrawn.

**Claim Rejections Under 35 U.S.C. § 101**

Claim 52 is rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter.

In response, claim 52 has been amended. Accordingly, Applicant respectfully requests the rejection to claim 52 under 35 USC § 101 be withdrawn.

**Claim Rejections Under 35 U.S.C. § 102**

Claims 25-28, 30-32, 39-41, 43-45 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Jung et al., (U.S. Patent No.: 7,054,317; hereinafter “Jung”).

In response, claim 25 has been amended to recite, among other things, “logic for modifying TCP window size operably coupled to the logic for determining delay and configured to modify TCP window size based on the determined delay and a target transmit buffer delay.” (Emphasis added). For support, for example, see indicated allowable original claim 29, paragraphs [0031]-[0039], and Figures 2 and 3. Independent claim 39 has been amended similarly to claim 25.

In contrast to the claims, Jung discloses a method for determining TCP congestion window size (cwnd) by multiplying the estimated RTT by a “safety factor” to compensate for system variations. This is described as follows:

$$cwnd = TCPthroughput * estimated\_RTT * safety\_factor$$

Here, ‘estimated\_RTT’ is an estimated round trip time, and ‘safety\_factor’ is a numerical value compensating for variations in the network state and RTT.

The computed value is multiplied by an appropriate safety factor(s<1), and thus a sharp variation of the network state and influence of the incorrect RTT are compensated, thereby controlling the throughput of the TCP level. The retransmission mechanism of the conventional TCP is used as a retransmission mechanism. (Emphasis added).

Col. 3, lines 39-50.

Thus, Jung fails to disclose, “logic for modifying TCP window size operably coupled to the logic for determining delay and configured to modify TCP window size based on the determined delay and a target transmit buffer delay.” as recited in claim 25. (Emphasis added).

Accordingly, Applicant respectfully submits independent claims 25 and 39 are allowable over Jung. Thus, for at least the foregoing reasons, Applicant submits claims 26-28, 30-32, 40-41, and 43-45, each of which depends from either base claim 25 or 39, are allowable.

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 25-28, 30-32, 39-41, 43-45.

**Claim Rejections Under 35 USC §103**

Claims 37-38, and 50-51 are rejected under 35 U.S.C. 103(a) as allegedly being anticipated by Jung et al., (U.S. Patent No.: 7,054,317) in view of Haumont et al., (U.S. Publication No.: 2004/0071086 A1).

For at least the foregoing reasons, Applicant respectfully submits claims 37-38 and 50-51, each of which depends on either base claim 25 or 39, are allowable over Jung in view of Haumont et al. Accordingly, Applicant requests reconsideration and allowance of claims 37-38, and 50-51.

Furthermore, claims 52 and 53 are rejected under 35 U.S.C. 103(a) as allegedly being anticipated by Jung et al., (U.S. Patent No.: 7,054,317) in view of Bergamasco et al., (U.S. Publication No.: 2005/0141419 A1).

For at least the reasons given for independent claims 25 and 39, Applicant respectfully submits claims 52 and 53 are allowable over Jung in view of Bergamasco et al. Accordingly, Applicant requests reconsideration and allowance of claims 52 and 53.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No.: 03-1952** referencing **Docket No.: 562492006400**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: March 30, 2009

Respectfully submitted,

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